

REMARKS

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

Claim 32 was missing in the original application. The claims have been renumbered with originally submitted claim n above 32 now numbered n-1.

Claims 1-38 are pending in this application. Claims 1-34 have been canceled. Claims 35 and 37 have been amended. Claims 39-42 have been added.

Claim 35 has been amended to recite to include all limitations of its original parent claim, and to broaden the original claim to change the words "infrared absorption spectrum" to the words "vibrational spectrum" of a parent claim. Claim 37 has been amended in the same way to bring amended claim 37 the required antecedent. New claims 39-42 are dependent on amended claim 35, and reintroduce the limitation "infrared absorption spectrum" of old claim 35, and are the same as the dependent claims originally dependent on old claim 35 and its parent claims. New claims 43-46 introduce Raman vibrational spectroscopy as a modality for measuring vibrational spectroscopy, and are the same as claims 35-42 with the words "infrared absorption" replaced by the word "Raman". This addition is supported at page 14 line 20. New claims 47-61 are original claims 17-33 written as apparatus claims, with the limitation of claim 29 added to the parent claim. New claims 62 to 67 are claims directed to Raman detection of cells in the cell division state. New claims 62 to 67 are supported at page 14 line 20. Additional details claimed for observing Raman spectra are very well known to those of skill in the art.

The office action states that Claims 1-4 and 34-35 are rejected under Section 35 U.S.C. 102(e) as being anticipated by. Cohenford mentions or suggests neither

"characterizing each cell according to an aspect of the vibrational spectrum each cell wherein the vibrational spectrum of each cell is analyzed for indications that the cell is in a cell division stage"

nor

"statistically analyzing the characteristics of the groups cells "

Claims 35-67, as amended and new, are thus not anticipated by Cohenford and are allowable under Section 35 U.S.C. 102(e).

The office action states that Claims 1-8 and 34-38 are rejected under Section 35 U.S.C. 103(c) as being unpatentable over Wang et al. In view of Kosaka, and/or Ito et al. The cited art does not mention or suggest

"characterizing each cell according to an aspect of the vibrational spectrum each cell wherein the vibrational spectrum of each cell is analyzed for indications that the cell is in a cell division stage"

and hence the new claims and claims (as amended) are patentable under Section 35 U.S.C. 103(c).

An extension of time from Sept. 30, 2003 to Oct. 30, 2003 for filing a reply in the above identified application is respectfully requested under 37 CFR 1.17. An additional fee of \$55 is required. The required fees and any insufficiency or overage (except issue fees) may be debited or credited to deposit account 08/2240. A signed deposit account authorization is on file for this case.

On the basis of the above amendments and remarks, reconsideration of this application and its early allowance is respectfully requested.

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8(a) and (b), 37CFR 1.86(f)

I hereby certify that the following attached correspondence comprising: Response and Amendment is being sent by facsimile transmission to the Commissioner of Patents on October 24, 2003 at FAX NUMBER 703-872-9310

Respectfully,

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PATENT TRADEMARK OFFICE

Docket No 096-021, serial No. 09/068,463 Inventors: Dlen, Max, Bargenetti, III, Copen, Tamara, Boydston-White, Susie
Method of Characterization of Biological Entities-Filing date June 18, 2001, art unit 1743 examiner Jan M. Ludlow

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